

Clay County, Missouri

Case Number September 15-136RZ

Case Type Rezoning

Project Name Liberty Farm PUD

Applicant(s) Doug Perry for The Church of Liberty (TCOL)

118 N. Conistor Unit #B251

Liberty, MO 64068

Owner(s) Michael Miller and Phillip Linger, owners of Millin Co., LLC

4416 NW Briarcliff Ln Gladstone, MO 64116

Request Rezoning from Community Services District (C-3) to

Residential Services District Multi-Family (R-SDM) with a

Planned Unit Development (PUD) overlay district.

Application Submittal 2015-08-03

Public Notice Published 2015-08-13

Neighbor Letters Sent 2015-08-12

Report Date 2015-08-26

REPORT AUTHOR(S) Matt Tapp, Manager

Debbie Viviano, Planner

Recommendation TABLED with conditions



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### **General Information**

Site Location: approx. 14518 Old Quarry Rd

Section 34 | Township 53 | Range 30

Site Size: 6.00+ Acres

Existing Landuse & Zoning: Community Services District (C-3)

Zoning/Platting History: Res. # 2003-397, 08/25/2003, Rezoning – from

Agricultural (AG) to C-3 (case #July 03-149RZ)

### **Surrounding Landuse & Zoning:**

North - Rocky Hollow Park, Watkins Ridge (R-1A), AG and R-1 zoned land

East - Stockwell Acres 2005 (R-1A/AG), Stein Addition 2005 (R-1A), AG zoned land, City of

Excelsior Springs (approx. 3/4 mile)

South - AG zoned land, City of Excelsior Springs (approx. ¼ mile)

West – <u>Jeremy Acres</u> (R-1A), <u>Rocky Hollow 2<sup>nd</sup> Plat</u> (R-1A/AG), <u>Rocky Hollow</u> (R-1) AG

zoned land

### **Current Conditions:**



Courtesy Clay County Assessor GIS/Mapping



Courtesy Microsoft® Bing™

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### **Assessment**

Doug Perry for The Church of Liberty (henceforth referred to as "TCOL") on behalf of owners Michael Miller and Phillip Linger is requesting **Rezoning** approval from Community Services District (C-3) to Residential Services District Multi-Family (R-SDM) with a Planned Unit Development (PUD) Overlay Zoning District for 6.00 acres located at approximately 14518 Old Quarry Road.

According to the applicant's PUD development plan, Mr. Perry and TCOL would like to establish "Liberty Farm" as explained in the following respect (see Attachment D):

"a place where people can find Liberty in Christ and learn to live in a sustainable way. We want it to be a place for us to have regular worship services, to be a retreat center where people can come to get prayer or rest, a working ecologically friendly farm, a place for a small community of believers to share costs and live together".

### **2008 Comprehensive Plan Considerations**

The Comprehensive Plan ("Plan") indicates that the subject property is located in the URBAN SERVICES TIER, as well as the 1-Mile Urban Coordination Sub-Tier.

The following tables illustrate two (2) of the most pertinent policies shaped by the Plan. The first (1<sup>st</sup>) table shows the land use tiers and corresponding guidelines, and the second (2<sup>nd</sup>) explains the exceptions to the 20-acre minimum lot size policy as directed by the Plan.

Table 4.2 - Land Use Planning Tiers – Presented on the Planning Tier Map						
	Natural Resources Tier * (Yellow)	Rural Low-Density Tier * (Green)	Urban Services Tier + (Salmon)			
Intent	Support continued agricultural uses in areas beyond near- and long-term urban service extensions.	To accommodate low density rural uses in areas located beyond anticipated city annexation areas.	To promote urban development compatible with the long range growth plans of adjoining cities.			
Primary Uses	Agricultural-related uses, natural resources	Agricultural crop lands, livestock grazing, wood lands, grasslands, rural residences	Urban density residential and non-residential			
Residential Uses	Rural Density: 1 dwelling unit per 20+ acres.	Rural Density; Rural Residential Density; low-density rural residential development: 1-dwelling unit per 20+acres; or 1-farmstead dwelling on 5+acres; Suburban Density; moderate-density development on municipa Hevel services; up to 4- units peracre.	Suburban Density: moderate- density development on municipal-level services: up to 4- units per acre. Urban Density: development on municipal-level services: greater than 4-units per acre. 20-acre minimum for agricultural and rural residential uses until such time as urban development occurs.			
Non- Residential Uses	Farm service related, recreation	Farm service related, recreation	Recreation, limited commercial and industrial consistent with the long range growth plans of adjoining cities.			
Minimum Sanitary Sewer Provisions	On-site septic, Community Wastewater Facility if indicated by LESA guidance.	On-site septic, Community Wastewater Facility if indicated by LESA guidance.	Municipal Wastewater Treatment Plant connection for Suburban Density or greater. <sup>(1)</sup>			
Zoning Districts	Ag-related zoning districts; Open Space & Parks; non- agricultural zoning if on strict standards (not including Res. Low Density, such as on 3-acre lots).	Ag-related zoning districts; Open Space & Parks; non- agricultural zoning if on strict standards (not including Res. Low Density such as on 3-acre lots).	Open Space & Parks; and residential districts through general industrial (not including Res. Low Density such as on 3-acre lots).  AG, Agricultural zoning is appropriate until full range of urban services available.			

On-site septical lowed for agricultural uses only.

<sup>•</sup> The **Planning Tier Map** notes a special designation of areas within one mile of each city: "I-Mile Urban Coordination Sub-Tier" where advise-and-consent should be solicited from the designated city. The applicant will be required to submit a letter from the city of jurisdiction concerning the proposal. The Clay County Planning and Zoning Commission may consider the letter as a non-binding city recommendation for Clay County to consider in their deliberations.



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	Natural Resources Tier→	Rural Low-Density Tier	Urban Services Tier			
	(Yellow)	(Green)	(Salmon)			
Intent	Exceptions from 20-acreminimum lot size in Ag-districts / phasing in of new regulations					
Density Exceptions for Legal Lots of Record as of the date of Revision of the Land Development Code	subdivided parcel is preserve deed restriction.	e lots, provided that 50% of the ed, such as in an agriculture  Or, subdivision of land to 10+acre lots, provided that a "shadow plat" at urban density is approved.	Subdivision of land to 10 +acre lots, provided that a "shadow plat" at urban density is approved, and—for plats within one mile of a city—the city's issues have been addressed.			
Other Exceptions	Farmstead** dwe llings allow	ed on S+acre parcels.	City within one mile may review and recommend other exceptions granted in other tiers, provided a "shadow plat" at urban density is approved.			

The Natural Resources Tier includes an "**Urban Services Transition Sub-Tier**" area along M-92 and C-Highways that extends where urban development is influenced by the urban highway; yet remains within the Natural Resources Tier designation for purposes of enhanced environmental review and scrutiny.

A case referral for the subject request was sent to the City of Excelsior Springs, Missouri per the Comprehensive Plan "1-Mile Urban Coordination Sub-Tier" advise-and-consent guidance, as well as standard procedure for a rezoning within 1 mile of a city. In emails dated 08/26/2015, the City of Excelsior Springs responded. The City voiced concerns over the following:

- · Lack of sanitary sewers or on-site treatment
- Substantial life safety issues related to the unimproved roads
- Residential development on top of the underground mine
- Proposed zoning is not appropriate for underground space
- No drainage study
- No traffic impact study addressing impact of proposed rezoning on City of Excelsior Springs road network

See Attachment "E" for further detail.

### **Character of the General Neighborhood**

Agricultural (AG) zoned property is in each direction of the property. <u>Watkins Ridge</u> (R-1A) and Clay County's Rocky Hollow Park are to the north, and to the south the City of Excelsior Springs is approximately ¼ mile. <u>Stockwell Acres 2005</u> (R-1A/AG), <u>Stein Addition 2005</u> (R-1A), and the City of Excelsior Springs (approximately ¾ mile) are to the east. <u>Jeremy Acres</u> (R-1A), <u>Rocky Hollow 2<sup>nd</sup> Plat (R-1A/AG)</u>, and <u>Rocky Hollow</u> (R-1) are all to the west [see Attachment B].

### **LDC Considerations**

The rezoning application was properly noticed in the Kearney Courier on August 13, 2015. Adjacent property owners within the statutory law mandated 1,000 foot distance were notified by means of a certified letter dated mailed on August 12, 2015. The petitioner should fully address the five (5) rezoning criteria in the Land Development Code (LDC) which requires the following standards be met with a rezoning application (*LDC Section 151-3.3 F*):

- 1. Whether or not the proposed amendment corrects an error or inconsistency or meets the challenge of a changing condition in the area;
- 2. Whether or not the proposed amendment is consistent with the *Comprehensive Plan* and the stated purpose and intent of Sec. 151-1.7;

<sup>4</sup> A "Farmstead Dwelling" is the original residence built and initially occupied by a farm family, regardless of whether the current household occupant is associated with farming.

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- 3. Whether or not the proposed zoning district as a whole allows development that is compatible with existing uses and zoning of nearby property;
- 4. Whether or not the county and other service providers will be able to provide adequate public facilities and services to the subject property, while maintaining adequate levels of service to existing development; and
- 5. Whether or not the proposed amendment would result in significant adverse impacts on other property in the vicinity of the subject tract or on the environment, including air, water, noise, storm water management, and natural resources.

In addition to the above approval rezoning criteria, the petitioner should fully address the three (3) criteria required for a **Planned Unit Development (PUD)** overlay plan approval criteria be (*LDC Section 151-3.8 (G*)):

- 1. The PUD Concept Plan is consistent with sound planning practice and the development will promote the general welfare of the county; and
- A PUD is necessary to address a unique situation or represents a substantial benefit to the county, compared to what could have been accomplished through strict application of otherwise applicable base zoning district standards;
- 3. and the same development could not be accomplished through the use of other techniques, such as rezoning to a non-PUD district or Variances.

### **Outside Agency Review**

Section 151-9.7 (B) of the LDC requires that a Traffic Impact Study be completed prior to any proposed change in landuse. Since this subject request proposes a zoning district change from commercial to multi-family residential, then this provision applies. Only the Highway Administrator is allowed to waive this requirement, and no written authorization has been received by staff as of this writing.

In an email dated 08/20/2015, the Clay County Health Department noted:

"The [Missouri] Department of Natural Resources [MDNR] is responsible for 'approving multiple family residences, restaurants and commercial facilities when their domestic wastewater flows are less than or equal to 3,000 gallons per day and do not discharge into subsurface soil absorption systems (e.g. lagoon or any other discharging system).' From what I understand of this proposed site, it meets the above criteria and therefore would be up to [M]DNR to review and approve."

In meeting with staff at MDNR, there are standardized processes for reviewing a proposed residential housing development dependent upon whether the proposed development will treat up to 3,000 gallons/day or more. MDNR advised that the applicant should first work with their engineer to analyze the anticipated amount of treatment, and then submit the proposed wastewater treatment system information to the appropriate review authority. As of this writing, neither MDNR nor Clay County Health Department has received either points of information for the subject request.

The Public Water Supply District No. 8 of Clay County (PWSD No. 8) presently provides water service to the property. In a letter dated 08/24/2015, PWSD No. 8 advised this provision of water service requires at a minimum a "Water Availability Engineering Study". As of the date of this writing, the applicant has not received full approval through PWSD No. 8.

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No Fire District or Ambulance District officially serves the subject request. This location and the surrounding area represent a pre-existing void that is neither served by Kearney Fire nor Excelsior Springs Fire, as Excelsior Springs Fire is not an official fire district and the area rests outside of Kearney's coverage area.

Platte-Clay Electric presently serves the property and has the necessary facilities to serve the request.

### **Findings**

A Planned Unit Development ("PUD") overlay zoning district is a type of development plan and zoning tool used to address mixed use development of residential and non-residential (e.g. commercial or semi-commercial) uses. The complete proposed request is presented under *Attachment D* below with the applicant's information, including a development plan and a design drawing of a proposed "bunkhouse".

Staff advises that the proposed Liberty Farm development best fits within a PUD classification due to their wish to construct residential structures that would be smaller than the minimum 1,000 square feet for a 1-story and 1,400 square feet for a 2-story building in an R-SDM zoning district, per LDC Section 151-4.9.

TCOL is proposing to locate the following number, type, and size of residential structures on the proposed 6.00 acres to be rezoned:

#	Туре	Building Size	Site Plan Designation	# of Dwelling Units (DUs) (Households)
1	Single-Family Yurt	16' diameter	Y	1
15	Single-Family Bunkhouses	12' x 16' <i>OR</i> 16' x 20'	С	15
3	Single-Family Attached Bunkhouses (1 Bedroom)	36' x 40' <i>OR</i> 45' x 50'	B1	3
3	Single-Family Attached Bunkhouses (2 Bedrooms)	36' x 40' <i>OR</i> 45' x 50'	B2	3
5	Single-Family Attached Bunkhouses (4 Bedrooms)	36' x 40' <i>OR</i> 45' x 50'	B4	5
	27			

### A "Dwelling Unit" is defined in the following way according to the LDC:

"A building or portion of it designed and used for residential occupancy by a single household and that includes exclusive sleeping, cooking, eating and sanitation facilities. Buildings with more than one set of cooking facilities are considered to be multi-dwelling structures unless the additional cooking facilities are clearly accessory."

### "Household":

"Any one of the following: (a) one or more persons related by blood, marriage, adoption, or legal guardianship, including foster children, living together in a dwelling; (b) up to 4 unrelated persons; or (c) 2 unrelated persons and their children living together in a dwelling unit."

### "House, Detached" (commonly referred to as a "Single-Family Detached"):

"A single dwelling unit, located on its own lot, which is not attached to any other dwelling unit. The term includes residential-design manufactured housing units and modular houses."

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"House, Attached" (commonly referred to as a "Single-Family Attached"):

"A single dwelling unit, located on its own lot, which shares one or more common or abutting walls with one or more dwelling units. An attached house does not share common floor/ceilings with other dwelling units. An attached house is also called a townhouse."

### "Density":

"The number of dwelling units permitted per net gross acre of land."

Based upon the above estimated number of dwelling units (households) and LDC definitions, the proposed density for Liberty Farm PUD would be calculated in the following manner:

# of DUs (Households)	Acreage	Density Rate
27	6.00	4.5

Staff analyzed the estimated household density rate within a 1-mile radius buffer of the proposed rezoning area. A total of 2,342.88 acres of residential parcels fall within the 1-mile radius, with a total hypothetical (actual plus potential) number of 651 households. That averages out to a household density rate of 3.6 (or 2,342.88 divided by 651).

Section 151-10 of the LDC requires development standards for off-street parking as a new use is established. Staff would classify Liberty Farm PUD as an "All Other Household Living" under the Off-Street Parking Schedule "A" in the LDC. Schedule "A" requires two (2) parking spaces per dwelling unit (DU).

In relation to the subject request, this would calculate out to be a minimum number of 54 offstreet parking spaces as Liberty Farm PUD plan shows 27 new dwelling units as identified above. Additionally, in accordance with LDC 151-10.1 (E) a minimum number of 3 accessible spaces of which at least 1 must be van-accessible must be provided that meet American Disabilities Association (ADA) universal accessible space standards. The submitted PUD site plan drawing does not show details of any off-street parking stalls.

Increases in required off-street parking initiated by future development and/or buildings would be addressed prior to the issuance of any building permits in accordance with Section 151-10 of the LDC. The required parking spaces and drives shall be ready for use and approved by the Planning and Zoning Director prior to issuance of a certificate of occupancy.

### Recommendations

It is the recommendation of Staff that the request for **Rezoning** from Community Services District (C-3) to Residential Services District Multi-Family (R-SDM) with a Planned Unit Development (PUD) overlay district for 6.00 acres located at approximately 14518 Old Quarry Road be **tabled** due to the absence of an approved Traffic Impact Study and adequate public services (water and sanitary sewer system). However, if the Planning & Zoning Commission votes to approve, staff recommends the following conditions as shown on Exhibit A:

### **Exhibit A**

- 1. Approved sanitary sewer system that adequately serves the subject request by the appropriate review agency (Missouri Department of Natural Resources (MDNR) and/or Clay County Health Department).
- 2. Approved water supply service that adequately serves the subject request by the Public Water Supply District No. 8 of Clay County.

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- Any future new or additions to structures will need to meet all applicable fire and building codes.
- 4. Any buildings tied to the subject PUD must be adequately shielded from view by adjacent property and public roadway by fencing, vegetative plantings, berms, or any combination thereof that effectively block the view
- 5. Increases in required off-street parking initiated by future development and/or buildings would be addressed prior to the issuance of any building permits in accordance with Section 151-10 of the LDC. The required parking spaces and drives shall be ready for use and approved by the Planning and Zoning Director prior to issuance of a certificate of occupancy.
- 6. Lighting shall be directed downward and shielded from direct glare on nearby properties and roadways.
- 7. Following adjustments to the PUD site plan drawing:
  - a. ADD: Detailed graphics within the "Community Parking (Overflow)" illustrating the required minimum number of 54 off-street parking stalls that includes a minimum of 3 accessible spaces of which at least 1 must be van-accessible that meet American Disabilities Association (ADA) universal accessible space standards.
  - b. REMOVE note: "SANITARY WILL BE ON SITE COMPOST"
  - a. CHANGE note: "PROPERTY NOT IN FLOOD PLAIN" to "Designated Special Flood Hazard Areas (SFHA) per FEMA FIRM Map #29047C0160E, Panel No 160 of 350, Dated August 3, 2015."
  - c. ADD: Graphics depicting SFHA per FEMA FIRM Map #29047C0160E.



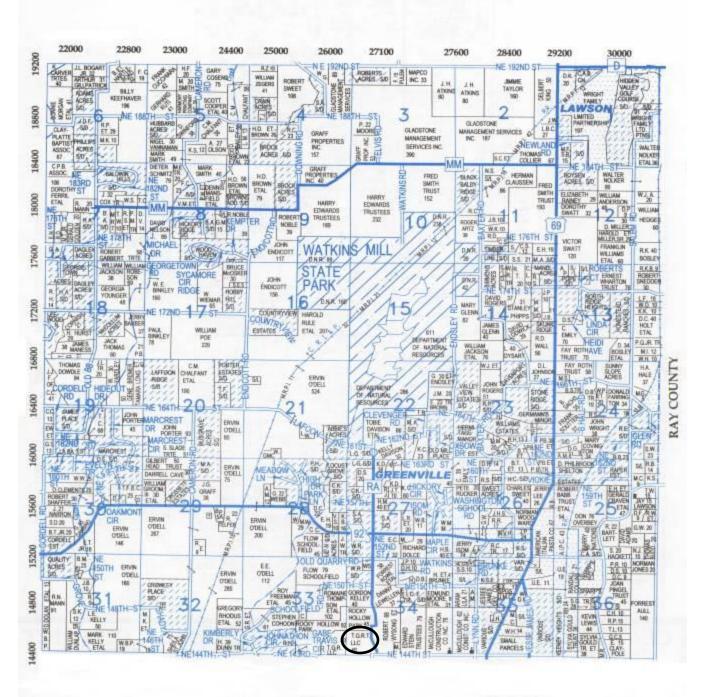
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### **Attachments**

# Sept. 15-136RZ – Liberty Farm PUD

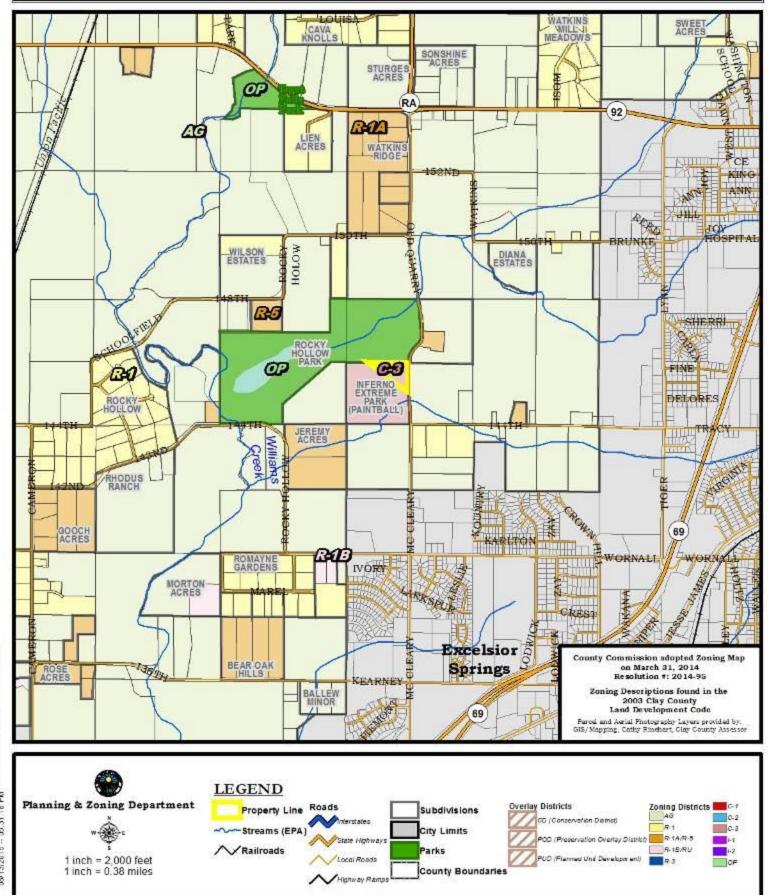
Attachment A - Vicinity Map

# **TOWNSHIP 53N • RANGE 30W**

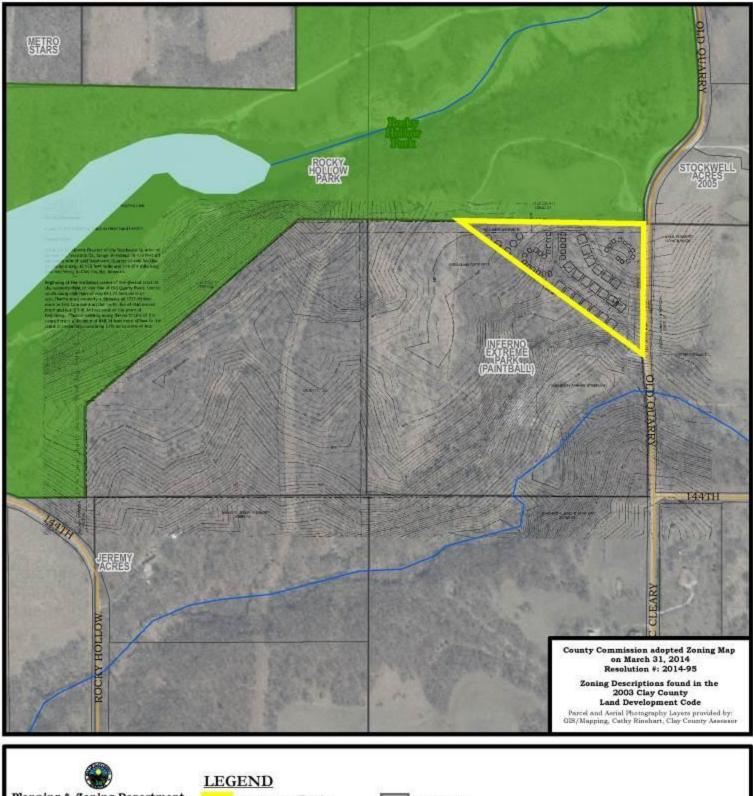


# Sept 15-136RZ – Liberty Disaster Relief

Attachment B - Existing Conditions Map



# Sept 15-136RZ – Liberty Disaster Relief Attachment C - Site Plan Map





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# Sept. 15-136RZ – Liberty Farm PUD

Attachment D – Applicant Information (7 pages)

### Liberty Farm

Development Plan for 14518 Old Quarry Road
Prepared by The Church of Liberty / Liberty Disaster Relief
August 3, 2015

### Who are we?

We were founded by our pastor, Doug Perry, who grew up in Excelsior Springs and went to Excelsior Springs High School. His father, Dr. Bob Perry, was the pastor at Pisgah Baptist Church and First Baptist Church and later director of the Clay-Platte Baptist Association. Doug is a graduate of William Jewell College and holds a Master degree from UMKC. He was an award-winning businessman that started several businesses before turning full-time to ministry. He has written eight books and been interviewed on TV, radio and internet shows.

Like many other groups, we are Christians that believe deeply and passionately that the Christian life is best lived out in community. We see ourselves very much in the tradition of the Shakers, the Quakers, the Moravians and others that lived together, worked together, farmed together and worshipped together. We believe in Biblical marriage. The protection of the "least of these" – particularly children – is very important to us. We believe in Jesus Christ as the Son of God, the sole hope for Mankind and that those who make Him the Lord of their life are part of the Bride of Christ, the Universal Church, and part of the Local Church manifest in their city. We have a responsibility to feed the hungry, clothe the naked, care for the poor and share with those in need. We are also a group that has been slandered, gossiped about, lied about and generally maligned by lots of folks that don't understand us or have a chip on their shoulder. And Jesus said that would happen – and we're to rejoice when it does. In the last ten years we have ministered to millions of people through our videos online, we've housed hundreds of homeless in Clay County, we have given away over 4 million pounds of food, and millions of dollars of household goods, beds, linens, toys, clothing and other items to those in need in the local area and beyond.

### Who we are not.

We do not believe in violence of any kind, are not "preppers," and do not believe in the use of weapons. The Bible says that our battle is against spiritual forces, not physical ones. While in the past we have had places to take in addicts and homeless, that is NOT what the Farm is intended to be at all. We are not a "cult" – an insulting term which is practically worthless. We don't recruit, we don't tell anyone they can't leave, we don't take away cell phones, we don't try to control anyone, we don't believe in "wife-swapping" or any other fool thing. Our beliefs are well within the Christian mainstream. We are not a commune where everything is shared. We believe in personal property rights and everyone has their own space (with a door).

### What are we talking about?

We have acquired the property at 14500 Old Quarry Road in Clay County. We plan to call it "Liberty Farm" because we want it to be a place where people can find Liberty in Christ and learn to live in a sustainable way. We want it to be a place for us to have regular worship services, to be a retreat center where people can come to get prayer or rest, a working ecologically friendly farm, a place for a small community of believers to share costs and live together – and a cave to use for storage and our other programs as needed.

Liberty Farm Development Plan - Page 1



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### How will this affect the neighbors?

Well, we really don't think it will at all. Because we are committed to living as simply as possible, we have very few vehicles. In this area, the average family of four has at least two cars and maybe as many as four or five. Not including a couple of box trucks and some tractors, we have about one vehicle for every five people. In the initial phases of our Site Plan we're talking about needing parking for 5-10 vehicles. Even at the full completion of our Site Plan, we wouldn't expect to have more than 20 to 30 vehicles parked there. This is FAR less traffic than when the property moved 13,000 people through there in the month of October for the Haunted House.

We have plenty of space on our land and are sufficiently removed from the neighbors that we would not expect them to even notice us. We intend to hold worship services, but there is a space inside the cave that is big enough for us to gather 50-150 people. It's unlikely that people outside the cave could even hear us playing music. Most of the people coming to the worship services would already be living there, so traffic on Old Quarry Road would not be an issue.

Although we are connected to rural water (District 8), we intend to collect and recycle rainwater for most of our needs like showering and washing, using the gray water for irrigation of landscaping elements. We plan to use the 55 degree cold air from the cave to "air condition" many of the buildings and to keep the greenhouse from freezing in the winter. We don't expect there to be any problems with waste water that would affect any of our neighbors, the streams or sewers. We are actively coordinating with the Clay County Health Department and the Missouri Department of Natural Resources about best practices to be the most efficient possible with all the necessary waste systems.

We are looking at how to generate as much of our own electricity as possible through solar or wind power, but we <u>are</u> connected to the grid. We have a 75,000 watt diesel generator that we could run on biodiesel that we create ourselves and pump power back to the grid. It's big enough to power our entire property — and probably several local neighborhoods. We are working on plans to recycle all of the waste generated on the property in one form or another.

We are trying to design buildings that fit gently into the environment. We will not be clear-cutting the land, but trying to fit buildings in amongst existing trees wherever possible. Our site plan calls for building 5-10 buildings per year. We would be starting closest to the center of our land and working our way out toward Old Quarry Road.

If a person were to ask why we are choosing to rezone this particular corner of the property, it's because it's relatively flat, it's easily accessible – and it's not above the cave. While the engineers have preliminarily given us permission to put light, shallow structures like these above the cave, it seems best to all concerned to avoid increasing the overburden on the cave if we can.

One of the best things about us being there is that it will put a stop to that property being a destination for partyers and vandals. The Sheriff has said that it's been a constant source of problems going back decades.

Liberty Farm Development Plan - Page 2



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### What do you expect it to look like two years from now?

We should have the donated greenhouse (80'x100') erected and operational by Spring 2016, growing all sorts of things and testing our designs for aquaponics production – raising fish and plants in a closed system recirculating the water (<a href="https://www.youtube.com/watch?v=K5zP4WPgcqY">https://www.youtube.com/watch?v=K5zP4WPgcqY</a>). We expect to be selling organic food at the local farmer's markets and investigating setting up our own CSA (Community Supported Agriculture) program where local neighbors would pay up front for a box of fresh produce every month and we'd deliver a wide variety of the very best fruits, vegetables, eggs, dairy, cheese, meats and more that could be grown locally. We want our production to also supplement our food pantry in Liberty that already gives away over 500,000 pounds of food per year. We hope to engage lots of groups, especially youth groups, to come learn about organic farming, permaculture, aquaculture and more. (Much like the Urban Farm Guys in Kansas City – <a href="https://www.theurbanfarmguys.com">www.theurbanfarmguys.com</a>.) (We have no plans of moving the food pantry to the Farm – it needs to be close to those in need.)

We want to maximize the value of the onsite cave and investigate how best to create a worm farm – both for bait worms and for castings for fertilizer. We think (maybe) that it would also be an ideal environment for growing a variety of types of mushrooms. It would also be good for cave-aged cheese and storage of gourds and vegetables. We also have a ready-made source of bat-generated fertilizer inside the cave – if we can find it. We expect to be raising chickens, goats and rabbits for sure and are open to other ideas as they come along.

In two years we expect that there might be as many as 40-60 people living on site, with a few visitors at any given time. That might swell when we have a weekend conference or a youth group come help, but typically we have only had 10-20 come at the most in the past.

### What kind of buildings are you planning on?

We heard recently about a 10,000 square foot house being built in Clay County for just two people to occupy. While people are welcome to spend their money however they like, we think this kind of excess is a big part of the world's problem. We are trying to build inexpensive, reasonably sized housing units. We basically have three initial designs, reserving the right to adjust as needed and experiment (as approved by building codes).

We have small cabins in the 120-190 square foot range (to 12'x16') that might look like these:





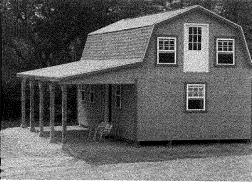
Liberty Farm Development Plan - Page 3



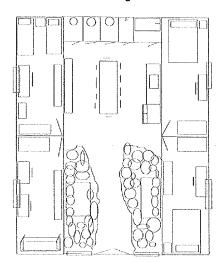
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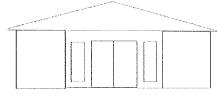
We have larger cabins in the 320 to 600 square foot range (16'x20'/two story) that might look like these:





Then we have designed what we call the "Bunkhouse" which we're really excited about. It would have an interior greenhouse in the midst of kitchen and social space. (36'x40')





Engineered trusses on two 40° shipping containers. Metal roof with clear panels. Interior dirt floor with pavers and greenhouse in common living space.



Sketched with 9.5' High Cube x 40' containers

Sprayed insulation on outside walls and on roof.

Clear panels in metal roof for natural lighting.

Containers set on piers at corners with skirting all around for air insulation underneath.

Bathrooms and front porch built like a deck.

Exposed trusses allow light in - and storage of water tanks on top of containers for recycling rainwater into showers.

Cold air from cave piped in for cooling. Heating provided in each bedroom and/or by wood stove in the center.

Provides four private bedrooms of 160 square feet each, accommodating 4 to 8 persons.

Liberty Farm Development Plan - Page 4



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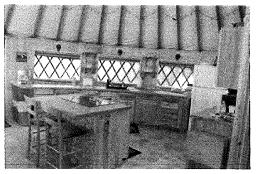
We're also making allowance for some non-traditional structures. Non-traditional in the sense that we're not used to seeing them in Missouri, but they've been in use for over 2,000 years in Mongolia! These are pictures of traditional Mongolian Yurts that can be be built cheaply and are super tough and can resist nearly any kind of storm because of their shape and design.



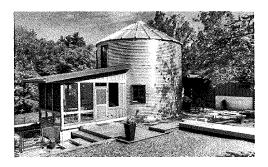


Here are some interior pictures of larger ones:





We're also trying to be open to experimenting with other building methods (again, as approved by Clay County building codes), that would use hay bale, cobb, tire, earthship or other construction methods. Or recycle things like silos – as people are doing all around the country.





Liberty Farm Development Plan - Page 5

# SH CLAY COUNTY

# **Report to Planning & Zoning Commission**

Clay County, Missouri

Below are some links that might be helpful:

Our main website: <a href="http://www.LibertyDisasterRelief.com">http://www.LibertyDisasterRelief.com</a>

International Directory of Intentional Communities - 52 listed in Missouri! <a href="http://www.ic.org"><u>Http://www.ic.org</u></a>

Explanation of RLUIPA – Religious Land Use and Institutionalized Persons Act <a href="http://www.justice.gov/crt/about/hce/rluipaexplain.php">http://www.justice.gov/crt/about/hce/rluipaexplain.php</a>

A neat Eco-village in North central Missouri <a href="http://www.dancingrabbit.org">http://www.dancingrabbit.org</a>

Christian Intentional Communities in Kansas City <a href="http://theurbanfarmguys.com">http://theurbanfarmguys.com</a>
<a href="http://cherithbrookcw.blogspot.com">http://cherithbrookcw.blogspot.com</a>

Christian Intentional Communities elsewhere <a href="http://www.rosecreekvillage.com">http://www.rosecreekvillage.com</a>
<a href="http://www.rebaplacefellowship.org">http://www.koinoniafarm.org</a>

http://www.ic.org/directory/christian-communities/ http://christiancommunity.org.uk/links-to-other-christian-communities

### Other News and Links

http://www.connecticutmag.com/Connecticut-Magazine/April-2015/Despite-Controversy-Intentional-Living-Gaining-Acceptance-in-Connecticut/

 $\frac{http://hippiechickdiaries.com/2013/12/04/in-the-zone-intentional-communities-and-local-zoning-regulations/$ 

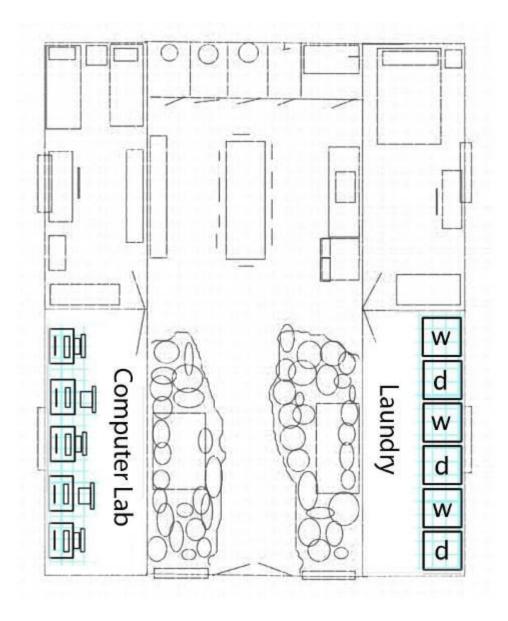
http://communityenterpriselaw.org/zoning-and-housing/

http://www.huffingtonpost.com/2010/09/24/christians-new-monasticism\_n\_738729.html

Liberty Farm Development Plan - Page 6

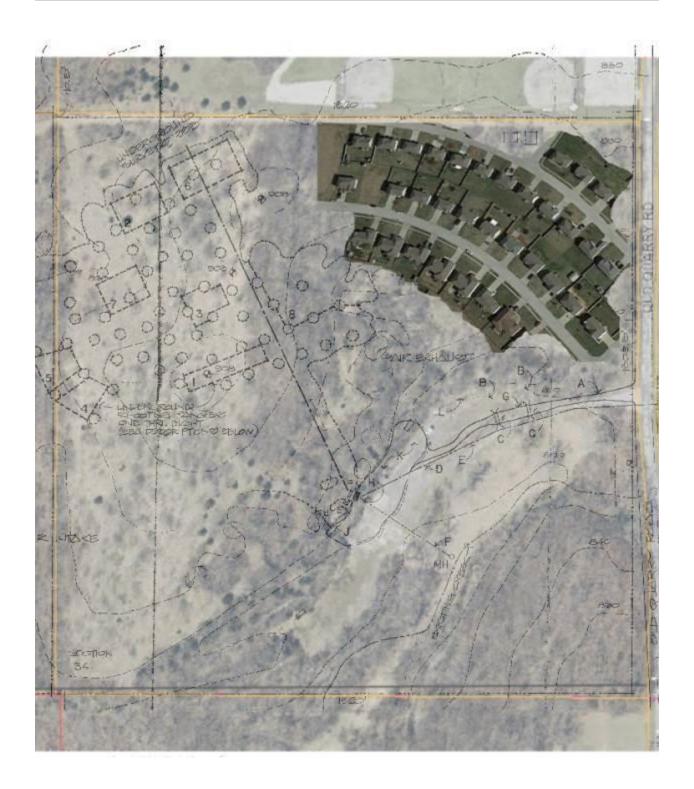


Clay County, Missouri





Clay County, Missouri





Clay County, Missouri

# Sept. 15-136RZ – Liberty Farm PUD

Attachment E – City of Excelsior Springs Response (11 pages)



Office of The City Manager 201 East Broadway Excelsior Springs, MO 64024 Phone: (816) 630-0752 Fax: (816) 630-4424 www.ci.excelsior-springs.mo.us

August 26, 2015

Matt Tapp Clay County Planning and Zoning 234 West Shrader, Suite C Liberty, MO 64068-2448

Re: Rezoning Request to change zoning from Community Services District (C-3) to Residential Services District Multi-Family (R-SDM) with a Planned Unit Development

(PUD) zoning overlay district Case No: September 15-136RZ

Applicant: Doug Perry, with The Church of Liberty, representing Millin Co., LLC

Dear Mr. Tapp:

The purpose of this letter is to express the opposition of the City of Excelsior Springs to the proposed rezoning by Doug Perry with The Church of Liberty, representing Millin Co., LLC, Case No. September 15-136RZ. At the direction of the City Council, the City staff of the Planning and Zoning Department, Fire Department and Public Works Department reviewed the information provided by Clay County concerning the "Liberty Disaster Relief" plan for the 67.72 acre tract. The City Manager and Building Official also met with the Applicant to allow him to explain the project. Based on all of the information reviewed, the City Staff concluded that the proposal is contrary to the public health, safety and welfare of the citizens of Excelsior Springs and of Clay County. Among the issues considered are:

### Proximity to the City of Excelsior Springs

As indicated on the enclosed map, the site is within 1,300 feet of the Excelsior Springs city limit. The site is approximately 1,800 feet from a single family residential subdivision in the City, and 3,500 feet from the Excelsior Springs School District complex that includes the Middle School, High School and Athletic Center as well as the new Excelsior Springs Community Center now under construction. Given these distances, the City of Excelsior Springs and its residents, schools and businesses will be directly impacted by all aspects of the proposed development.

Lack of Sanitary Sewers or On-Site Treatment Meeting Clay County Regulations



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The site is not connected to any public sanitary sewer system. This project does not meet applicable requirements for connection to the City system, which include separate toilet facilities and sewer connections for each residential structure and an engineered collection system approved by the Department of Natural Resources. There may be a holding tank or septic system located near the entrance to the old mine; however, the manner of construction, condition and capacity are unknown. The Applicant proposes to dispose of human waste from the residential area by "on-site composting" which essentially means that the Applicant will collect human waste in buckets and spread it on the ground. This is a direct violation of Clay County Code Section 201.161(G)(c) which states that even for alternative waste disposal systems there shall be "no discharge to the ground surface or surface waters."

The City of Excelsior Springs will spend over \$1,300,000 this fiscal year to extend sanitary sewer lines to City residents with existing on-site septic systems because a number of the systems can no longer meet enhanced Clay County Health Department regulations. Each homeowner will also be required to spend \$2,500 to \$5,000 to install a service line to the sewer main and decommission the septic system. The City spent over \$200,000 last year to extend a sanitary sewer line to previously undeveloped land in the City east of the Midwest National Air Center to spur economic development in that area. There is no explanation the City could offer to the homeowners and the taxpayers of the City for these expenditures if Clay County approves what amounts to a residential subdivision without any sewer disposal system, allowing residents to simply dump their sewage on the ground.

The Unimproved Roads, Parking Areas and Residential Construction Locations Create Substantial Life Safety Issues.

The land proposed for rezoning is a "no man's land" with regard to fire protection. It is not within any Fire District. The Excelsior Springs Fire Department station at 1120 Tracy Avenue is the closest emergency responder and has responded to fires in this general area in the past.

The land is within the Clay 8 Water District; however, the line to the property is too small to provide water for fire suppression. Excelsior Springs does not have tanker trucks or other equipment sufficient to fight a fire in the proposed residential complex of closely packed structures. The problem is compounded by the proposal to maintain dirt roads and access areas near the structures. It will be difficult if not impossible to get fire apparatus and ambulances into the property during wet weather, snow or ice conditions, and the attempt to do so would endanger Excelsior Springs emergency responders and City equipment.

The Applicant Has Not Established That The Surface Is Appropriate For Residential Development.

The property proposed for rezoning includes an abandoned underground limestone mine. The roof of the mine is unstable as demonstrated by sinkholes clearly visible on the surface in the attached aerial map. The extent of the mined area cannot be determined from the information submitted by the Applicant; therefore, it cannot be determined whether the surface in any particular area is safe for residential use. Until the Applicant submits a detailed survey of the



Clay County, Missouri

undermined area and a geotechnical report addressing soil stability, the application should not be considered.

#### The Proposed Zoning Is Not Appropriate For The Use Of The Underground Space.

The Applicant has already commenced a metal recycling operation in the abandoned limestone mine on the property. Use of underground space is generally addressed by a specific overlay district, with regulations concerning appropriate uses and safety requirements. Copies of the Underground Overlay District zoning code sections of Excelsior Springs and Kansas City, Missouri are attached for your reference. Clay County does not have appropriate zoning code regulations in place at this time. Use of underground space also requires compliance with regulations to address sprinkler systems, compartmentation, smoke control systems, fire alarm systems, means of egress, standby power, and emergency power, including, the provisions of Section 405 of the 2012 International Building Code. The Applicant has not submitted information concerning these critical life safety issues as adopted by Clay County.

### No Drainage Study Has Been Submitted.

The site plan indicates that the area proposed for residential construction is at the highest elevation on the property. Runoff will be east into the City of Excelsior Springs or west into Rocky Hollow Park and Rocky Hollow Lake. There is no indication of the area to be cleared. The plan proposes dirt roads and parking areas except for a small area of existing paving at the entrance to the abandoned mine. The Applicant has not submitted any information demonstrating how runoff will be controlled and how Clay County clean water standards will be met. This is an area of enhanced concern given the proposal to dump human waste on the surface.

# The Applicant Has Not Submitted A Traffic Study Addressing The Impact Of The Proposed Rezoning On Traffic Safety In The City Of Excelsior Springs.

The primary means of vehicle ingress and egress from the property will be N.E. 144<sup>th</sup>, Tracy and Lynn Road in the Excelsior Springs city limits. These streets are heavily traveled due to the Excelsior Springs School District complex and the Excelsior Springs Community Center scheduled to open in 2016. Until a professional traffic study is submitted, the Application should not be considered. The response that a haunted house was operated on the property does not obviate the need for a traffic study. That activity was for a few weeks in evening hours and ended several years ago.

#### Conclusion.

The City Council reviewed all information presented to the City by your office and the Applicant, and unanimously concurs with the professional opinion of the City staff. The City Council respectfully requests that Applicant's request for rezoning be denied, and that any future requests for rezoning or development of this property be considered only after the issues raised in this letter are addressed at the time of the application. The City Council also suggests that Clay County review the current activities on the property, including the underground operation, for compliance with Clay County Codes.



Clay County, Missouri

Very truly yours,

Vinkere Bushman Ambrose Buckman, Mayor



Clay County, Missouri

### Chapter 408

### **/U UNDERGROUND OVERLAY DISTRICT**

Section 408.010. General Provisions. Section 408.020. Establishment of

District.

Section 408.030. Uses.

Section 408.040. Standards and Requirements.

#### Section 408.010. General Provisions.

#### [R.O. 2012 §408.010; Ord. No. 12-03-04, 3-5-2012]

- A. Jurisdiction. These regulations shall apply to all land located within the City of Excelsior Springs.
- B. *Purpose And Intent.* The /U Underground Overlay District is established for the following purposes:
  - To accommodate and permit the reasonable use of underground space;
  - To protect other properties and persons from adverse effects caused by underground activities; and
  - 3. To protect the health, safety and welfare of persons in or around /U Districts.

### Section 408.020. Establishment of District.

#### [R.O. 2012 §408.020; Ord. No. 12-03-04, 3-5-2012]

- A. The /U District may be established when either of the following conditions exists:
  - 1. Where usable underground space exists; or
  - Where subsurface located material intended to be extracted exists that adjoins an
    existing /U District or where the surface land at the entrance has an "A"
    Agriculture or "M" Industrial zoning classification.
- B. The /U zoning classification may be established, amended or removed only in accordance with rezoning procedures of Chapter 400. The only difference is that the /U District provisions apply only to the subsurface area and do not affect the zoning classification of the land surface above the /U District.
- C. The initial designation or amendment must be accompanied by a certified survey map showing the extent of existing underground mining, the extent of proposed underground mining, and all points of access to the surface, whether vehicle entrances, pedestrian entrances, or openings for utility or ventilation.

408:1

Publication 12/14



### Clay County, Missouri

Section 408.030

EXCELSIOR SPRINGS CITY CODE

Section 408.040

#### Section 408.030. Uses.

### [R.O. 2012 §408.030; Ord. No. 12-03-04, 3-5-2012]

- A. The following uses are permitted by right in the /U Underground Overlay District:
  - Any use permitted by right, permitted by right with minimum use standards, or by special use permit in the zoning district controlling the surface property at the primary entrance (that having the most traffic) to the underground space is permitted in the /U District.
  - When not allowed by the surface zoning classification, extraction may be allowed by special use permit in accordance with Section 400.230.
  - Other allowed uses may be allowed in the subject /U District by the City Council
    at the time the /U District is established, provided that such use is not otherwise
    prohibited by other relevant City ordinance.

### Section 408.040. Standards and Requirements.

#### [R.O. 2012 §408.040; Ord. No. 12-03-04, 3-5-2012]

- A. Underground space in the /U District is subject to the following standards and requirements:
  - Building permits are required to develop a habitable underground building and to qualify for a certificate of occupancy.
  - 2. Access to underground uses must be by means only of non-residential zoning districts. Access to underground uses must be through property owned by or controlled by operators of the underground space. Such access must connect immediately to a major thoroughfare without first proceeding through or by other properties; or such entrances must be on property properly zoned to contain the uses developed within the underground space.
  - 3. In order to qualify for building permits or certificates of occupancy, the owners or operators of underground space must have on file with the City a certificate by a registered professional engineer regarding the structural integrity of the underground space. Such certificate may provide for exceptions or conditions that apply as a condition of building permit approval.
  - All above ground ventilation equipment and utility installations must be screened from view of streets and adjacent R-zoned lots by landscaping or structures that are architecturally compatible with surrounding development.

408:2

Publication 12/14



Clay County, Missouri

Section 408.040

/U UNDERGROUND OVERLAY DISTRICT

Section 408.040

The City Council may impose conditions of approval as it deems appropriate to the particulars of the request. Approval of a special use is at the sole discretion of the City Council and is not a use of right. Such approval, when given, shall be solely for the location proposed, and shall not be transferable voluntarily or involuntarily or by operation of law; but shall be personal to the permittee to whom such special use permit is granted. The City Council may revoke a special use permit for cause shown, after a hearing. Failure to meet minimum requirements of the law or conditions of the special use permit shall be grounds for revocation.

408:3

Publication 12/14



Clay County, Missouri

### City of Kansas City, Missouri Underground Zoning Codes

### • 88-265 - US, UNDERGROUND SPACE DISTRICT

### • 88-265-01 - PURPOSE

The US, Underground Space district is a special purpose zoning district established for the following purposes:

- **88-265-01-A.** to accommodate and permit the reasonable utilization of underground space;
- **88-265-01-B.** to protect other properties and persons from adverse effects caused by activities in underground space; and
- **88-265-01-C.** to protect the health, safety and welfare of persons in or around underground facilities.

### • 88-265-02 - ESTABLISHMENT OF DISTRICT

88-265-02-A. The US district may be established when either of the following conditions exists:

- 1.
  - Where usable underground space exists; or
- 2.
- Where limestone or other subsurface-located material intended to be extracted exists that adjoins an existing US district or where the surface land at the entrance has an M zoning classification.
- **88-265-02-B.** The US zoning classification may be established, amended, or removed only in accordance with the zoning map amendment procedures of 88-515. The only difference is that the US district provisions apply only to the subsurface and do not affect the zoning classification of the surface above the US district.
- **88-265-02-C.** The initial designation or amendment must be accompanied by a certified survey map showing the extent of existing underground mining and all points of access to the surface, whether they are vehicle entrances or other entrances for ventilation or utility purposes.

### • 88-265-03 - USES

The following uses are permitted by right in the US district:

- **88-265-03-A.** Any use permitted by right or by special use permit in the zoning district controlling the surface property at the primary entrance (that having the most traffic) to the underground space is permitted in the US district under the same terms as apply in the surface district.
- **88-265-03-B.** When not allowed by the surface zoning classification, extraction may be allowed by special use permit in accordance with 88-525.
- **88-265-03-C.** Other allowed uses may be identified for the subject US district by the city council at the time the US district is established, provided that such use is not otherwise prohibited by the building code, fire code, or other relevant city ordinance.

### • 88-265-04 - STANDARDS AND REQUIREMENTS



Clay County, Missouri

Underground space in the US district is subject to the following standards and requirements:

### 88-265-04-A. BUILDING PERMITS

Underground space must have a valid building permit to develop a habitable underground building and to qualify for a certificate of occupancy.

#### 88-265-04-B. ACCESS

The entrances to all US district must be through property owned or controlled by the owners or operators of the underground space. Such entrance property must connect immediately to the major thoroughfare system, without first proceeding through or by other properties; or such entrances must be on property properly zoned to contain the uses developed within the underground space.

### 88-265-04-C. SAFETY

In order to qualify for building permits or certificates of occupancy, the owners or operators of underground space must have on file with the city plan commission a certificate by a registered professional engineer regarding the structural integrity of the underground space. Such certificate may provide for exceptions or conditions that must be adhered to as a condition of building permit approval. Certificates will be valid for newly added or mined-out areas if so indicated on the certificate. Such certificate must be dated within the past 10 years to be valid for its application to new areas.

#### 88-265-04-D. SURFACE ZONING EXCLUSION

With the exceptions as noted in this section, all US districts are separate from the provisions of the surface zoning districts even though they may underlie them.

### 88-265-04-E. SURFACE AND SPECIAL EASEMENTS

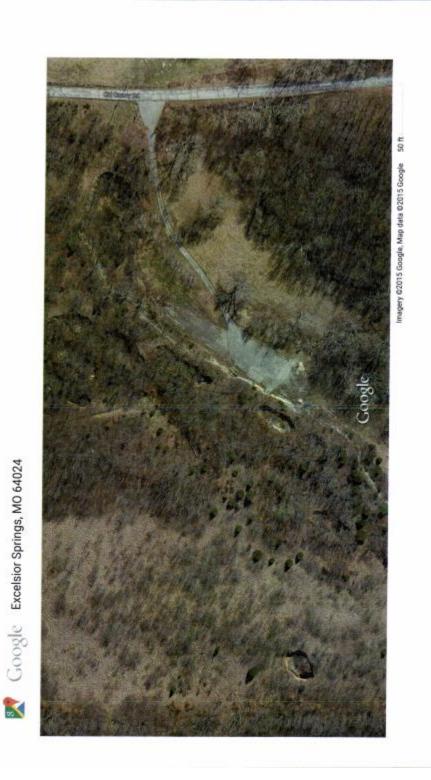
Penetrations from US districts to the surface property above it are permitted without regard to conforming to the provisions of such surface zoning district, provided that such penetrations are for the purpose of connecting utilities or to contain safety, relief, or life-support systems to the underground. All penetrations must be contained within a special easement to the underground development owner or operator to ensure its perpetuity or continued service to the safety and convenience of the underground development, or, if appropriate, to the city.

### 88-265-04-F. BUILDING REGULATIONS

Building regulations relating to underground space can be found in §18-261 et seq.



Clay County, Missouri





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